

REMARKS

The last Office Action has been carefully considered.

It is noted that in the present application the claim is rejected under 35 U.S.C. 102(b) over the patents to Loncaric, Fawley, and Smith.

As for the Examiner's comments related to the specification, it is respectfully submitted that the Examiner did not point out any specific deficiencies in the species, and therefore applicant has difficulties in correcting the specification. However, if the Examiner insists on the corresponding changes, he is respectfully requested to clarify them, and applicant will be glad to correct the specification correspondingly.

After carefully considering the Examiner's grounds for the rejection of the claims over the art, applicant cancelled the claims and submitted a new set of claims 37-53.

It is respectfully submitted that the claims currently on file clearly and patentably distinguish the present invention from the prior art applied by the Examiner against the original claims.

Claim 37 defines a pipe which has a spiral for checking and/or repairing a wall of a pipe. In accordance with the new features of the present invention, the spiral has a helical ~~lead~~ and a pitch is less than a length of a crack or split in the pipe.

The references applied by the Examiner, namely the patents to Loncaric, Fawley, and Smith have been carefully considered. None of the references disclosed a pipe in which the pitch is less than a length of a split or crack in the pipe. This feature is just plainly not disclosed in the references.

The Examiner rejected the claims over the references as being anticipated. In connection with this, it is believed to be advisable to cite the decision in re Lindenman Maschinenfabrik GmbH v. American Hoist & Derrick Co., 221 USPQ 481, 485 (Fed. Cir. 1984) in which it was stated:

"Anticipation requires the presence in a single prior art reference disclosure of each and every element of the claimed invention, arranged as in the claim."

Definitely, none of the references discloses each and every element of the pipe of the present invention as defined now in claim 37.

It is respectfully submitted that the anticipation rejection should be considered as no longer tenable and should be withdrawn.

It is further respectfully submitted that the references do not contain any hint, suggestion, or motivation for the above mentioned new feature of the present invention as defined in claim 37. In order to arrive at the applicant's invention from the teaching of the references, the references have to be fundamentally modified and in particular by the new features of the present invention as now defined in claim 37. However, it is known that in order to arrive at a claimed invention, by modifying the references cited art must itself contain a suggestion for such a modification.

This principle has been consistently upheld by the U.S. Court of Customs and Patent Appeals which, for example, held in its decision in re Randol and Redford (165 USPQ 586) that

Prior patents are references only for what they clearly disclose or suggest; it is not a proper use of a patent as a reference to modify its structure to one which prior art references do not suggest.

Definitely, the present invention can not be considered as obvious from the references.

It is further respectfully submitted that none of the references discloses the spirals provided in the wall of the pipe on the outside and on the inside; a vitreous mass provided in a groove, and formed as an optically

conductive layer, a double layer; fixation of the vitreous mass to the surface of the groove; all above features allow the whole length of the pipe; welded (glued) connection of the vitreous mass for the pipe with a butt weld, forming together with the vitreous mass of this pipe a continuous line of transmission of optical vibrations.

As for the other claims, these claims contain the features of claim 37 and define the additional features, and they should be considered as patentably distinguishing over the art and should be allowed.

Reconsideration and allowance of the present application is most respectfully requested.

Should the Examiner require or consider it advisable that the specification, claims and/or drawings be further amended or corrected in formal respects in order to place this case in condition for final allowance, then it is respectfully requested that such amendments or corrections be carried out by Examiner's Amendment, and the case be passed to issue. Alternatively, should the Examiner feel that a personal discussion might be helpful in advancing this case to allowance; he is invited to telephone the undersigned (at 631-243-3818).

Respectfully submitted,



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UNITED STATES PATENT AND TRADEMARK OFFICE

Examiner: Hook

Art Unit: 3754

In re:

Applicant: GUROV

Serial No.: 10/524,303

Filed: February 4, 2005

Request for Extension of Time

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Commissioner for Patents
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Alexandria, VA 22313-1450

Sir:

Please extend the time for response
by 3 months and charge to acc.

26-0085.

Respectfully submitted

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